



**NEVADA COMMISSION ON ETHICS
EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO.
07-21C

SUBJECT: PETER LIAKOPOULOS, MEMBER
NYE COUNTY BOARD OF COMMISSIONERS

A. JURISDICTION:

In his capacity as a member of the Nye County Board of Commissioners, Peter Liakopoulos is a public officer as defined by NRS 281.4365. As such, the Nevada Commission on Ethics has jurisdiction over this complaint.

B. INVESTIGATIVE ACTIVITIES:

- Reviewed Request for Opinion (complaint) 07-21C, received April 12, 2007 from Steve W. Johnson, including the following (TAB B):
 - Nye County Agenda Information Form for item 11h, March 20, 2007 meeting of the Nye County Board of Commissioners
 - Offers of Dedication of Street/Road Right-of-way from Dorn, a property owner adjacent to the TV station, and Van Winkle, the owner of the TV station
 - Articles from *The Mirror* Newspaper
- Reviewed response received April 30, 2007 from Peter Liakopoulos, including a letter to the Nye County Board of Commissioners from the chief executive officer of Desert View Regional Medical Center. Reviewed responses to additional questions e-mailed May 7, 2007 (TAB C)
- Reviewed agenda, minutes and agenda item information form from the June 20 & 21, 2006 meeting of the board of commissioners; agenda, minutes and agenda item information form from the February 20 & 21, 2007 meeting of the board of commissioners; agenda, draft minutes and agenda item information form from the March 20 & 21, 2007 meeting of the board of commissioners; letter dated April 30, 2007 to County Manager Ron Williams from Commissioner Borasky (agendas, excerpted minutes, TAB D)
- Reviewed the following reports filed by Mr. Liakopoulos (TAB E):
 - Nevada Financial Disclosure Statements filed July 27, 2006 & March 21, 2007
 - Campaign Contributions and Expenses Reports for 2006
- Reviewed corporation details from the Nevada Secretary of State website for KPVM-TV, Advanced Medical Center, Medical Systems Body Management, LTD, and Professional Staffing Network of Nevada (TAB F)
- Reviewed related Commission on Ethics Opinions (TAB G)

C. RECOMMENDATIONS:

Based on the results of investigation, it is recommended that the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.481(1)
- NRS 281.481(2)

SPECIFIC REASON:

Sufficient credible evidence does not exist to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether Mr. Liakopoulos violated the provisions of NRS 281.481(1) and NRS 281.481(2).

Based on the results of investigation, it is recommended that the Panel find that just and sufficient cause **DOES EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.501(2)
- NRS 281.501(4)

SPECIFIC REASON:

Sufficient credible evidence does exist to support a finding of just and sufficient cause for the Commission to hear the matter and render an opinion on whether Mr. Liakopoulos violated the provisions of NRS 281.501(2) and NRS 281.501(4).

D. SUMMARY OF REQUEST FOR OPINION (COMPLAINT):

The complaint, submitted by Steve W. Johnson, alleges violations of NRS 281.481(1), NRS 281.481(2), NRS 281.501(2) and NRS 281.501(4) by Mr. Liakopoulos. The following is the substance of the complaint:

Mr. Liakopoulos sponsored and voted to approve agenda items involving interests of business entities or persons in which he had either a pecuniary interest or a commitment in a private capacity.

During the Nye County Commission meeting held on February 21, 2007, Mr. Liakopoulos made a motion and voted to approve a reduction in the operating hours for Pahrump Medical Center. Dr. Bady, the principal of Pahrump Medical Center, sponsors television programs, produced by Mr. Liakopoulos by purchasing advertising time from Mr. Liakopoulos. These programs air on local television station, KPVM Channel 41. Mr. Liakopoulos has a conflict of interest as a result of the financial relationship between Mr. Liakopoulos, Dr. Bady and Pahrump Medical Center.

During the Nye County Commission meeting held on March 20, 2007, Mr. Liakopoulos sponsored and voted on an agenda item, to consider a possible decision to accept an offer from KPVM Channel 41, to dedicate its

roadway to Nye County conditioned upon the county chip sealing the road. Mr. Liakopoulos has a conflict of interest as a result of his substantial and continuing business relationship with the television station. His business is completely dependent upon his relationship with KPVM-TV Channel 41.

E. SUMMARY OF SUBJECT'S RESPONSE:

A response to the complaint was received from Mr. Liakopoulos on April 30, 2007. The following is a summary of that response:

Regarding the hours of operation of the Pahrump Medical Center (PMC):

This item was placed on the February 21, 2007 county board of commissioners' agenda to reduce the hours of daily operation at PMC by two hours.

Mr. Liakopoulos produces a TV show for Professional Staffing Network of Nevada. The program is called the *Medicine in Pahrump Show*. Dr. Bady and other medical people are involved in this program. During the board of commissioners' meeting, Mr. Liakopoulos disclosed that he is the producer of the show and that Dr. Bady is part of the show.

The decision to reduce the PMC hours of operation was a benefit to Desert View Regional Medical Center, the new hospital in Pahrump. The hospital is not part of the *Medicine in Pahrump Show*. This vote was taken to help generate more business for the hospital, since there are a low number of patients using the hospital during PMC's operating hours. The hospital requested this action to be taken. The vote was 4-1 to approve a reduction in the hours of operation for PMC. This action was good for the community.

Regarding the approval of chip sealing Higley Road during the Nye County Board of Commissioners' meeting held on March 20, 2007:

During the meeting, Mr. Liakopoulos disclosed that his TV shows air on KPVM-TV Channel 41. He voted on the issue. Mr. Liakopoulos pays the television station for airtime, but he receives no compensation from KPVM-TV.

The vote on this matter involved a concern for public safety. Channel 41 is a communications center. During a time of emergency, the community will need to get emergency vehicles in and out of Channel 41. This coming summer, Nye County will be chip sealing the road 600 feet from the TV station. Finishing the job now, while the road construction crews are already there, is cheaper than sending crews back at a later date. This will save Nye County money in the long run. The vote was 5-0 on this issue.

Mr. Liakopoulos made every effort to comply with the ethics rules. He disclosed his relationships with both groups involved and hid nothing from the public. He did not have a conflict of interest and had no bias. He did what was best for the community on both votes.

On May 4, 2007, I sent additional questions to Mr. Liakopoulos by e-mail. The following is the substance of his response:

The TV production company operates under the name of "Peter Liakopoulos." Mr. Liakopoulos produces TV shows and sells TV advertising through his company. He currently produces five shows and has eleven advertising clients. The monthly airtime duration of his shows is 20 to 25 hours. He pays a rate of \$75.00 per hour. Mr. Liakopoulos has a written sales contract with KPVM-TV relative to costs and times of day the shows are to air. This is the extent of his business relationship with KPVM-TV Channel 41. He has periodically had this relationship with KPVM-TV for the past ten years. (Approximately two years ago, Mr. Liakopoulos produced TV shows that aired on another local TV station for a year.)

Professional Staffing Network of Nevada is a client of and an advertiser with Mr. Liakopoulos. Nevada Professional Staffing handles marketing, staffing and other professional services for doctors and hospitals. Dr. Bady uses the services of Nevada Professional Staffing, including placing advertisements that are aired during TV shows produced by Mr. Liakopoulos.

Mr. Liakopoulos stated that he has no business relationships or contractual agreements with Dr. Bady. Dr. Bady has been interviewed on the *Medicine in Pahrump Show* once since the show began in January 2007.

As indicated in his 2006 Financial Disclosure Form, filed with the Nevada Secretary of State's office on March 21, 2007, Mr. Liakopoulos' only other source of income is his salary derived from his position on the Nye County Commission.

Mr. Liakopoulos stated that chip sealing the road to the TV station is important for public safety. Access to the TV station would allow the station to broadcast news related to a community emergency. Mr. Liakopoulos stated that he did not believe that Channel 41 has been designated as an emergency broadcast center. The town and county emergency services give both TV stations in Pahrump information for broadcast during an emergency. The other TV station is located on a chip-sealed road.

F. RELEVANT STATUTES:

NRS 281.481 General requirements; exceptions. A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a

reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281.501.¹

(b) “Unwarranted” means without justification or adequate reason.

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NRS 281.501 Additional standards: Voting by public officers; disclosures required of public officers and employees; effect of abstention from voting on quorum; Legislators authorized to file written disclosure.

* * * * *

2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

(c) His commitment in a private capacity to the interests of others.²

➔ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

* * * * *

4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest,

➔ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided

^{1, 2} **NRS 281.501(8):** As used in this section, “commitment in a private capacity to the interests of others” means a commitment to a person:

(a) Who is a member of his household;

(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

(c) Who employs him or a member of his household;

(d) With whom he has a substantial and continuing business relationship; or

(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.

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G. RESULTS OF INVESTIGATION:

The matter regarding the hours of operation of the Pahrump Medical Center was heard by the Nye County Board of Commissioners during its February 20 and 21, 2007 meeting. This matter is listed on the meeting agenda as item 11g:

“Action – Discussion, deliberation, and possible decision to approve amending the Lease Agreement with Medical Systems Management for the Pahrump Medical Center.”

The agenda information form on this item, approved by the county manager on February 13, 2007, describes the action requested:

“This amendment would cut back the hours that the Pahrump Medical Center is open to a minimum of 12 hours a day, 7 days a week. This would assist and facilitate the growth of the local hospital and increase the nighttime admissions.”

The agenda information form included a letter from the new hospital, Desert View Regional Medical Center, in support of the request to reduce the medical center’s hours of operation.

The minutes of the February meeting indicate that Dr. Bady and two other representatives of the medical center began the discussion by presenting information to the board of commissioners regarding the proposed amending of the lease agreement.

The minutes indicate that, after some discussion, the following disclosures were made:

“Commissioner Hollis and Commissioner Borasky disclosed that Dr. Bady was their doctor and that fact would not affect their decision on this item.”

“Commissioner Liakopoulos disclosed that there was a show that he produced called *Medicine Show in Pahrump*. He stated that it was produced through a company called Nevada Professional Services. He stated that Dr. Bady and several other physicians were part of this. He stated that he did not think that this would have an effect on his decision.”

After the disclosures, discussion continued between the representatives of the medical center and the commissioners. Commissioner Liakopoulos made a motion to approve the amendment. Commissioner Borasky seconded, and the motion passed with a vote of 4-1. The vote authorized the medical center to change its hours of operation from 7:00 a.m. – 11:00 p.m. to 7:00 a.m. – 9:00 p.m., seven days per week.

During a telephone interview with Larry Shea, conducted on May 16, 2007, the following information was obtained:

Larry Shea is employed by Dr. Bady as the administrator of Pahrump Medical Center. Mr. Shea also owns and operates Professional Staffing Network of Nevada, which was referred to in the February 20, 2007 minutes of the Nye County Board of Commissioners as “Nevada Professional Services.”

Professional Staffing Network of Nevada, has a substantial and continuing business relationship with Mr. Liakopoulos through the production of the *Medicine in Pahrump* show. This relationship began on or about November 2006.

Dr. Bady has an employment relationship with Mr. Shea and a business relationship with Professional Staffing Network of Nevada. Dr. Bady does not have a direct business relationship with Mr. Liakopoulos.

The initial request to amend the lease agreement for the medical center appeared on the June 2006 meeting agenda of the Nye County Board of Commissioners. The board of commissioners denied the request at that time. Mr. Liakopoulos and Mr. Borasky were not members of the board of commissioners at that time.

The hospital depends upon local physicians to fill its 24-hour staffing needs. The physicians who staff Pahrump Medical Center fulfill approximately 80 per cent of the hospital’s staffing needs. This creates a requirement for the local physicians to be on-call 24-hours for both facilities.

The matter regarding the dedication of the television station’s roadway to Nye County, conditioned upon the county chip sealing the road, was heard by the Nye County Board of Commissioners during its March 20 and 21, 2007 meeting. This matter is listed on the meeting agenda as item 11h:

“Action – Discussion, deliberation and possible decision to: 1) accept the offer of dedication without agreeing to improve the road; 2) accept the offer conditional on the owner paying for the road improvements; 3) accept the offer and also agree to chip seal the road; or 4) reject the offer at this time of Higley Road from Charleston Park Avenue to the North for a distance of approximately 680' to the KPVM Channel 41 TV station.”

The March 20 & 21, 2007 meeting agenda information form on this item, approved for the agenda by the county manager on March 13, 2007, describes the action requested:

“A 40' wide road easement from Charleston Park Ave to the North for a distance of 680' along the western side of Higley Rd has been offered for dedication to the County with a request that the County then chip seal Higley over the length of this easement to the Channel 41 TV station.

“The options available to the Board in responding to this request include:

1. Accepting the offer of dedication without agreeing to improve the road
2. Accepting the offer conditional on the owner paying for the road improvements
3. Accept the offer and also agree to chip seal the road
4. Reject the offer at this time

The cost to the County for Option 3 is estimated to be approximately \$8,000.”

The agenda information form included offers of dedication of street/road right-of-way from James and Lorna Dorn, KPVM-TV and Vernon Van Winkle (president of KPVM-TV), property owners whose parcels are affected by the proposed street right-of-way dedications. The draft minutes of the March meeting indicate that, before discussion on this item took place, the following disclosure and statement was made:

“Commissioner Liakopoulos disclosed that he purchased time on Channel 41. He stated that he brought the item forward and felt that the item was long overdue.”

After discussion, Commissioner Eastley made a motion to approve chip sealing at \$8,000.00. Further discussion regarding the funding source took place. The minutes also record that “Commissioner Eastley commented on the importance of mass communication within the community and the dependability of that communication.” The motion passed with a vote of 5-0. This vote occurred on March 20.

The board of commissioners reconvened on March 21. Commissioner Borasky made a motion to reconsider the matter regarding the dedication and chip sealing of the roadway. Four of the five commissioners agreed to reconsider the matter. After a closed session discussion, Commissioner Borasky requested that the county manager place the item on a future agenda for reconsideration.

In a letter dated April 30, 2007 to County Manager Ron Williams, Commissioner Borasky withdrew his request to have the matter placed on a future agenda for reconsideration. The chip and seal project is now considered to be approved.

Mr. Liakopoulos' campaign contributions and expenses reports indicate that advertising expenses of just over \$3,800.00 were paid to Channel 41.

H. CONCLUSION:

Allegations regarding NRS 281.481(1):

In a prior opinion, the analysis of the Commission on Ethics involved a two-pronged factual determination: (1) whether the public officer or employee sought or accepted a gift, service, favor, employment, engagement, emolument or economic opportunity; and (2) whether the gift,

service, favor, employment, engagement, emolument or economic opportunity would tend improperly to influence a reasonable person in the position of the public officer or employee to depart from the faithful and impartial discharge of his public duties (CEO 00-54).

As to the medical center:

Although the medical center and Dr. Bady have a business relationship with Mr. Liakopoulos and his TV production and advertising business, there is no evidence of a violation of public trust by his taking an official action in exchange for a personal benefit. Further, the vote to change the medical center hours of operation was 4-1 and appeared to be a benefit to the community as evidenced in the letter of support from the chief executive officer of the new hospital.

As to the TV station:

In his response to my follow-up questions, Mr. Liakopoulos indicated that he has had a business relationship with Channel 41 periodically for the last 10 years. Specifically, he uses Channel 41 exclusively for his TV production business.

According to the sales director for Channel 41, the hourly rate that Mr. Liakopoulos pays for airtime is the same rate he has paid since at least 2005, prior to his election to office.

There is no credible evidence that Mr. Liakopoulos sought or accepted any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence him in his position to depart from the faithful and impartial discharge of his public duties.

Allegations regarding NRS 281.481(2):

As to the medical center:

The agenda item relating to the amendment to the lease for Pahrump Medical Center preceded any business relationship between Mr. Liakopoulos and the parties involved. After being elected to the board of commissioners, Mr. Liakopoulos was contacted by Dr. Bady and Mr. Shea, as were all of the other commissioners, in an effort to lobby support for amending the lease. The request does not appear to involve an unwarranted privilege, preference, exemption or advantage for Mr. Liakopoulos or any business entity in which he has a significant pecuniary interest. There was justification and adequate reason for the amendment to the lease as indicated by the letter of support from the chief executive officer of the new hospital.

As to the TV station:

Although Mr. Liakopoulos has a commitment in a private capacity to the interest of Channel 41, his motivation to bring this item forward stems from

his concern for public safety. There appears to be adequate reason for this item to be brought forward at this time due to the financial benefit to the county, since road crews would be soon working within proximity of Higley Road.

There is no evidentiary basis to support the allegation that Mr. Liakopoulos acted in violation of NRS 281.481(2).

Allegations regarding NRS 281.501(2):

As to the medical center:

In view of the fact that Mr. Liakopoulos may have failed to make a sufficient disclosure required by NRS 281.501(4), the public was not informed of the potential effect of his action or abstention. In failing to disclose sufficient information regarding his commitment or interest, as required by NRS 281.501(4), Mr. Liakopoulos also failed to make an evaluation of the relevant factors to determine whether the independence of judgment of a reasonable person in his situation would be materially affected by his commitment or interest to Larry Shea or Professional Staffing Network of Nevada. Such an evaluation would have been necessary to determine whether or not to abstain on this matter.

As to the TV station:

In view of the fact that Mr. Liakopoulos may have failed to make a sufficient disclosure required by NRS 281.501(4), the public was not informed of the potential effect of his action or abstention. In failing to disclose sufficient information regarding his commitment, as required by NRS 281.501(4), Mr. Liakopoulos also failed to make an evaluation of the relevant factors to determine whether the independence of judgment of a reasonable person in his situation would be materially affected by his commitment in a private capacity to Channel 41. Such an evaluation would have been necessary to determine whether or not to abstain on this matter.

Allegations regarding NRS 281.501(4):

As to the medical center:

During the February 20 & 21, 2007 meeting of the board of commissioners, Mr. Liakopoulos made the disclosure that he had a business relationship with "Nevada Professional Services" and Dr. Bady. It appears that Mr. Liakopoulos had a pecuniary interest and a commitment in a private capacity to Larry Shea and Professional Staffing Network of Nevada, referred to as "Nevada Professional Services" in the minutes of the February 20 meeting. As such, he had an obligation to disclose sufficient information concerning his commitment or interest in order to inform the public of the potential effect of the action or abstention upon the entity to whom he had a commitment or interest. NRS 281.501(4) requires that such a disclosure must

be made at the time the matter is considered. Although a disclosure was made, a question remains whether the disclosure contained sufficient information regarding his commitment or interest in order to inform the public of the potential effect of the action or abstention. Accordingly, Mr. Liakopoulos may have acted in violation of NRS 281.501(4).

As to the TV station:

Mr. Liakopoulos made the disclosure that he had a business relationship with Channel 41. It appears that Mr. Liakopoulos had a commitment in a private capacity to Channel 41 due to his substantial and continuing business relationship. As such, he had an obligation to disclose sufficient information concerning his commitment or interest in order to inform the public of the potential effect of the action or abstention upon the entity to whom he had a commitment or interest. NRS 281.501(4) requires that such a disclosure must be made at the time the matter is considered. Although a disclosure was made, a question remains whether the disclosure contained sufficient information regarding his commitment or interest in order to inform the public of the potential effect of the action or abstention. Accordingly, Mr. Liakopoulos may have acted in violation of NRS 281.501(4).

I. RECOMMENDATIONS:

The Executive Director finds that there is no credible evidence to substantiate a potential violation of NRS 281.481(1) and NRS 281.481(2). Accordingly, the Executive Director recommends that the panel find just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion regarding whether Mr. Liakopoulos violated the provisions of NRS 281.481(1) and NRS 281.481(2) regarding his actions taken at the February and March 2007 meetings.

The Executive Director finds that there is credible evidence to substantiate a potential violation of NRS 281.501(2) and NRS 281.501(4). Accordingly, the Executive Director recommends that the panel find just and sufficient cause **DOES EXIST** for the Commission to hold a hearing and render an opinion regarding whether Mr. Liakopoulos violated the provisions of NRS 281.501(2) and NRS 281.501(4) regarding his disclosures at the February and March 2007 meetings.

Prepared by: Matt C. DiOrio DATED: May 17, 2007
MATT C. DI ORIO
SENIOR INVESTIGATOR

Approved by: L. Patrick Hearn DATED: May 17, 2007
L. PATRICK HEARN
EXECUTIVE DIRECTOR